BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 95-715-G - ORDER NO. 95-1756

DECEMBER 29, 1995

IN RE: Application of Piedmont Natural Gas Company for an Adjustment of its Rates and Charges and for Approval of Revised Depreciation Rates.	)))))	ORDER DENYING REHEARING AND/OR RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and/or Reconsideration of our Order No. 95-1649 issued in this Docket. The Petition was filed on or about November 28, 1995.

The Consumer Advocate for the State of South Carolina (the Consumer Advocate) delineates five (5) major issues with regard to the case, and asks for rehearing and/or reconsideration on all five (5).

First, the Consumer Advocate takes issue with the Commission's denial of the Consumer Advocate's proposal to disallow the inclusion of the entire amount (as adjusted upwards by the Staff) of $847,866 in Demand-Side Management (DSM) costs in Piedmont Natural Gas Company's (Piedmont's or the Company's) expenses. The Consumer Advocate had recommended that the DSM expenditures be excluded because the allowance of the costs is "inconsistent with the stipulation entered into by the Company and the Staff, and approved by the Commission in Docket No. 93-787-G."

The Commission has examined the matter and believes that it properly allowed Piedmont to recover its DSM expenses in this proceeding. In the November 7, 1995 Order at pages 15 through 16, the Commission addressed each and every one of the Consumer Advocate's DSM arguments presented at the hearing, and in the Consumer Advocate's post-hearing Brief. The parties who signed the stipulation referred to in Docket No. 93-787-G understood that the stipulation permits the recovery of DSM costs in the manner approved in the case. As the November 7, 1995 Order stated "It is clear that the Commission understood and approved the intent of Company and the Staff as expressed in the stipulation." If the Consumer Advocate took issue with the stipulation, it would have been necessary to appeal the IRP Order issued on January 27, 1995 which the Consumer Advocate did not do.

The Commission is puzzled by the Consumer Advocate's argument that the Commission attempted to make an appeal proof Order. This is erroneous, because the Commission took no action in the IRP Order or in the proceedings leading up to the issuance of the IRP Order to deny the Consumer Advocate the right to appeal.

The Consumer Advocate also challenges the Commission's treatment of a balance in the PGA deferred account. In Order No. 95-1649, the Commission reversed its previous decision in Order No. 91-1003 in which the Company's rate base was reduced by $3 million. In Order No. 95-1649, the Commission allowed Piedmont to keep the balance in the deferred account in its rate base, but ruled that the Company should compute interest on the floating

balance in the deferred account at the overall rate of return. The overall rate of return is set at 10.77%, therefore, the interest rate is 10.77%. According to the Commission's Order, anytime there is a positive balance in the PGA deferred account, interest will be credited to customers. In accordance with past Orders of the Commission, entries in the PGA deferred account are made monthly and the account is trued-up annually. The Order is quite clear on how interest is to be credited to the account.

The statement that the Commission's Order violates Parker v. Public Service Commission, 281 S.C. 215, 314 S.E.2d 597 (1984) is erroneous. The Parker case holds that it would be an error to permit a public utility to earn a return on funds supplied by its customers. In the present case, however, the Commission Order only permits Piedmont to earn a return on funds supplied by its shareholders. Piedmont is not only prohibited from earning a return on funds supplied by its customers, Piedmont is required to pay those customers interest on such funds. Therefore, the Consumer Advocate's assertions are incorrect.

Further, the Commission has the right to modify procedures from prior orders in balancing the interests of the Company and the ratepayers. Reversal of a prior Commission holding by the Commission does not dictate that the Commission's latter holding is erroneous.

The third assignment of error by the Consumer Advocate is that the Commission incorrectly found the Consumer Advocate's adjustment to interruptible sales flawed, because it erroneously

assumes a linear and limitless relationship between degree days and interruptible sales. In Order No. 95-1649, the Commission found that the throughput level proposed by both the Company and Staff was appropriate, and that the throughput level proposed by the Consumer Advocate was not appropriate. The Commission gave four (4) reasons for its holding. First, it pointed out that the method used by the Company had previously been found appropriate by this Commission, the North Carolina Utilities Commission, and the Tennessee Public Service Commission. Secondly, the Commission found that the adjustment proposed by the Consumer Advocate incorrectly assumes a linear and limitless relationship between degree days and interruptible sales. Thirdly, the Commission found that under certain conditions, colder weather actually reduces throughput in South Carolina and, fourthly, the Commission found that adopting the method proposed by the Consumer Advocate might actually increase rates in South Carolina.

In its Rehearing Petition, the Consumer Advocate ignored three (3) of these four (4) reasons and argued that its method does not depend upon a linear relationship between weather and interruptible sales. The testimony of Ware Schiefer stated as follows: "Mr. Watkins (the Consumer Advocate's witness) assumes that the relationship between degree days and curtailment of interruptible service is linear and limitless." Schiefer explained exactly what he meant by those terms and explained that the Consumer Advocate's proposal was mathematically invalid and that it failed "to recognize the demand limits of our

interruptible customers, as well as the practical limits on the Company's ability to transport and distribute gas on a daily basis." Thus, the Commission's Order is based on substantial evidence in the record and need not be changed on rehearing.

The next assignment of error by the Consumer Advocate is that the Commission approved, without exception, each and every new depreciation rate proposed by the Company in the case. The reasons cited by the Consumer Advocate that this holding was erroneous are several. First, the Consumer Advocate states that the Commission failed to consider certain "undisputed material facts of record." Second, the Consumer Advocate states that the Commission employed inconsistent standards in evaluating the evidence of the Company and the Consumer Advocate and, third, the Commission improperly relied upon a decision made in another jurisdiction.

It appears to the Commission that the Consumer Advocate is simply rehashing arguments that are erroneous, and that have already been rejected by this Commission.

With respect to the Consumer Advocate's first argument, the Commission did not fail to consider any material or undisputed facts. According to the Consumer Advocate, those material or undisputed facts relate to the fact that the Company has replaced some old unprotected cast iron pipe. Contrary to the Consumer Advocate's contention, these facts were neither ignored, nor are they material. The facts were not ignored, because the Deloitte & Touche depreciation study considers all of the Company's pipeline

additions and retirements, unless the study recognizes that the Company has been replacing unprotected pipe. These assertions are not material because there has been very little unprotected pipe in Piedmont's rate base for many years. All pipe installed for many years has been protected pipe, thus, the percentage of unprotected pipe in Piedmont's rate base has not been material for many years, and did not materially affect the depreciation study. Moreover, even if it were material, the depreciation rates approved by the Commission are significantly less than the amounts supported by the Deloitte & Touche depreciation study. Thus, even had the unprotected pipe been ignored as contended by the Consumer Advocate, it would have not had any effect on the approved depreciation rates.

With regard to the Consumer Advocate's second argument that the Commission did not give the same treatment to the Consumer Advocate's evidence as it did to the evidence of the Company and the Staff, the Commission found that the depreciation rates approved by it were almost exactly in the middle of the depreciation rates proposed by Deloitte & Touche, and the depreciation rates proposed by the Consumer Advocate. The Consumer Advocate argues that the Commission-approved rates are not in the middle of the current rates and rates proposed by the Consumer Advocate. The Consumer Advocate's argument is irrelevant, in that the Commission's task in the case was to determine future depreciation rates. The Commission gave numerous reasons why it adopted the approved future depreciation rates. It

also noted that the approval of future depreciation rates requires a great deal of judgment. In that connection, the Commission noted that the approved future rates were also exactly in the middle of the future rates proposed by the Company and the future rates proposed by the Consumer Advocate.

The Consumer Advocate's third argument concerning a statement by it that the Commission improperly relied on the decision of the North Carolina Utilities Commission is wrong both factually and legally. The Commission's Order makes it clear that its decision was based upon a depreciation study performed by a nationally recognized accounting firm, and it also makes it clear that the results of that study reflect the fact that the study was based upon a visual inspection of the Company's property, or view of the Company's property records and discussions with Company personnel.

Finally, the Commission's Order makes it clear that the Consumer Advocate's recommendations are not based on a visual inspection of property or a review of the Company's property or discussions with Company personnel. The fact that the North Carolina Utilities Commission reached the same result is simply evidence that this study was properly conducted, and the result is reasonable. Thus, the Consumer Advocate is not factually correct when he suggest that "The Commission abandoned the evaluation of the evidence by adoption of a foreign jurisdiction decision." The Commission merely pointed out that the North Carolina Utilities Commission had reached the same decision. The case cited by the Consumer Advocate further is inapplicable in the present case,

since that case simply holds that the Commission cannot avoid examining the evidence by stating that it is adopting an existing practice. In this case, the Commission thoroughly examined the evidence and based its decision on that evidence. Therefore, the cited case is not applicable.

Lastly, the Consumer Advocate attacks the return on common equity holding of the Commission, which was a rate of 12.5%. In ruling so, the Consumer Advocate states that the Commission violated S.C. Code Ann.§58-9-540(E)(Supp. 1994), and that the Commission's decision is not fully documented in its findings of facts and based exclusively on reliable, probative, and substantial evidence on the whole record. The Consumer Advocate's contention is incorrect. The Commission's decision is fully documented and based upon reliable evidence. The Commission discussed the evidence of three different witnesses. It then discussed extensively what it considered, including a variety of relevant factors, returns of other enterprises, financial policy and capital structure of the Company, and its ability to attract capital, the competency and efficiency of the Company's management, the inherent protection against the competition afforded the Company through the operation of the regulatory process, and the public demand for growth and system expansion which is required to evaluate the construction program for the foreseeable future. The return on common equity approved by the Commission does fall within the ranges proposed by the witnesses, contrary to the Consumer Advocate's contention. The Consumer

Advocate's range started at 10.50%, the Company's range ended at 13%. Thus, any return between those two numbers would fall within the range supported by the witnesses. Therefore, 12.5% as held by the Commission was within the range cited in the evidence.

The Commission has reviewed Order No. 95-1649, and concludes that it is fair and equitable to all parties, is fully supported by the evidence and by the Commission's findings of fact as set forth in the Order, and by the law. For these reasons, the Consumer Advocate's Petition for Rehearing and/or Reconsideration must be denied.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Rudolph Mitchell
Chairman

ATTEST:

Gary E. Walsh
Executive Director

(SEAL)